

EXHIBIT E

PART 1 OF 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X

NANCY DENARDI, :
Plaintiff, : Docket No.
-against- : 07CIV5794
DRA IMAGING, P.C. and : (MGC)
IMAGING SUPPORT SERVICES, LLC, :
Defendants. :

-----X

June 17, 2008

10:30 a.m.

Deposition of Defendants, by **VIRGINIA BARKYANI**, held at the offices of Keane & Beane, P.C., 445 Hamilton Avenue, White Plains, New York, before a Notary Public within and for the State of New York.

1 V. Barkyani

2 credentialing.

3 Q. Do you know whether or not she has
4 had any training in handling complaints of
5 employment discrimination?

6 A. No.

7 Q. When you became manager of the
8 billing department after Gail Platt left, did
9 Mrs. DeNardi become billing department lead?

10 A. When I took over after Gail Platt?

11 Q. Yes.

12 A. I did not make her billing department
13 lead.

14 Q. I didn't ask you that. I asked you
15 if she became billing department lead. I
16 didn't ask who made her that or anything like
17 that. I asked if she became billing department
18 lead on or about the time that you became the
19 manager.

20 MR. KLEIN: Objection to the form.

21 You can answer.

22 A. No.

23 Q. At the time Mrs. DeNardi's employment
24 with DRA ended, what was her title?

25 A. Billing department lead.

1 V. Barkyani

2 Q. So there was a period of time when
3 she held the position billing department lead;
4 is that correct?

5 A. Yes.

6 Q. Was that before or after you became
7 manager of the billing department?

8 A. Before.

9 Q. Was Gail Platt in any way involved
10 in the decision to make her billing department
11 lead, as you understand it?

12 A. Yes.

13 Q. She was? Did you have any input?

14 A. No.

15 Q. What year did Mrs. DeNardi become
16 billing department lead?

17 A. I don't know.

18 Q. What were her duties as billing
19 department lead?

20 A. She was assisting the insurance lead
21 with all the insurance rep questions. She also
22 helped on the patient rep side. She was very
23 good at taking patient calls and dealing with
24 their issues, authorizations, she would help
25 scheduling, front desk issues. She had a good

1 V. Barkyani

2 knowledge of insurance.

3 Q. Did she do refunds?

4 A. She worked on refunds, yes.

5 Q. Did she do client bills?

6 A. I'm not sure what time frame, but
7 she does have experience with client bills.

8 Q. I am talking about when she was
9 billing department lead.

10 A. Probably, yeah.

11 Q. So it's your testimony that
12 Mrs. DeNardi became billing department lead
13 before you became the manager?

14 A. Yes.

15 Q. And when she was billing department
16 lead, who was she reporting to? When Nancy
17 DeNardi became billing department lead, who was
18 she reporting to?

19 A. To myself.

20 Q. So it's your testimony that Gail
21 Platt promoted her to that position to report
22 to you and you had no input in the decision?

23 A. All the leads reported to me. Nancy
24 was a billing department lead, there was an
25 insurance lead, a charge lead, a payment lead.

1 V. Barkyani

2 with Heather about coming to work at DRA?

3 A. Nancy and Heather had asked if there
4 was anything available for Heather when she was
5 going to Dutchess Community in the fall, her
6 schedule would have been rather flexible and
7 kind of erratic from one semester to the other
8 and asked if there was anything available.

9 Q. You said Heather and Nancy asked you
10 about Heather coming to work for DRA; is that
11 your testimony?

12 A. Yes.

13 Q. And were they together when they
14 spoke to you?

15 A. No, they were not.

16 Q. And other than what you're
17 testifying to today, is there any other proof
18 that you have that Nancy DeNardi was supportive
19 of Heather coming to work at DRA?

20 A. Was she supportive?

21 Q. Right. Other than what you are
22 testifying to.

23 A. There is nothing written.

24 Q. How did you respond when you were
25 asked about opportunities for Heather?

1 V. Barkyani

2 A. I told them I would let them know
3 and I asked Mark about hiring her.

4 Q. And that would be Mark Newton?

5 A. Mark Newton.

6 Q. What did you say to Mr. Newton?

7 A. What did I say to him?

8 Q. Yes.

9 A. I asked him if it would be okay to
10 take Heather on during the school year a few
11 hours a week. He asked me if there was a need
12 and there was always a need in billing for
13 help.

14 Q. And so he said yes?

15 A. Yes.

16 Q. And then what did you do?

17 A. I let Nancy know that Heather could
18 work a couple of hours a week.

19 Q. And who set Heather's salary?

20 A. I guess Mark and I discussed it.

21 Q. What was the salary going to be?

22 A. I believe it was 8 or \$9.

23 Q. Per hour?

24 A. Yes.

25 Q. And was there an agreement as to

1 V. Barkyani

2 what days she would work per week or was it
3 flexible, according to her schedule?

4 A. Initially, it was flexible. As we
5 got a little tighter in the billing office and
6 space was tough -- probably a little on when
7 space got a little tighter, because we had been
8 planning on moving and as space got tighter we
9 had to specify which days and play with the
10 seating so that there was enough seating for
11 people.

12 Q. When did she start? Would it have
13 been September of 2004?

14 A. Yeah.

15 Q. And for how long a period of time
16 was it more flexible where she would come in
17 sort of based on her schedule?

18 A. For a year or so.

19 Q. So from September '04 to September
20 '05, she sort of set the schedule that she
21 would come in?

22 A. About. I mean, around that time we
23 hired a couple of additional people. It just
24 got tight. I don't have a definite time frame,
25 but it was flexible at first.

1 V. Barkyani

2 A. Yes.

3 Q. Did everyone work out of a cubby
4 that was in the billing department?

5 A. Yes.

6 Q. As of October 1st, 2005, Nancy
7 DeNardi was the billing department lead; is
8 that correct?

9 A. Yes.

10 Q. And up until that point, from the
11 time she became billing department lead up to
12 October 1st, 2005, you never issued her any
13 written memo, E-mail, letter, any other written
14 document in which you criticized her
15 performance; correct?

16 A. Nothing written.

17 Q. Who is Carolyn Huyler?

18 A. She was a billing office employee.

19 Q. Did she work in the charge area?

20 A. Yes.

21 Q. And do you recall what account was
22 assigned to her? And if "account" isn't the
23 right word, feel free to correct me.

24 A. Well, at what time?

25 Q. In 2004.

1 V. Barkyani

2 Let me ask it this way: Do you
3 recall a period of time when she worked on the
4 Vassar Brothers Medical Center charges?

5 A. She did work on that interface.

6 Q. Was that in --

7 A. I can't recall the dates.

8 Q. And who is Ronnee Monroe?

9 A. She is also a billing office
10 employee.

11 She was a lead at one time. I don't
12 know what time period, if you are going to ask
13 me that, over the charge area.

14 Q. And do you recall a period of time
15 when she had the Columbia Memorial Hospital
16 account assigned to her?

17 A. Ronnee?

18 Q. Correct.

19 A. Yes, she worked on that.

20 Q. Did there come a point in time where
21 you began to become critical of Carolyn
22 Huyler's performance?

23 A. It wasn't a point in time. Carolyn
24 always made a lot of errors and she did not
25 exhibit the best judgment when making patient

1 V. Barkyani

2 phone calls.

3 Q. And you were critical of those
4 issues?

5 A. Yes.

6 Q. And did you prepare a written
7 document outlining some of the concerns you had
8 about Ms. Huyler's performance and then conduct
9 a meeting with her to discuss them?

10 A. I think I did.

11 Q. And was Mrs. DeNardi present during
12 that meeting?

13 A. I believe so. Someone was present
14 with me when I met with Carolyn.

15 Q. Well, if Mrs. DeNardi were to
16 testify that she was present during that
17 meeting, do you have any information that would
18 demonstrate that that was incorrect?

19 MR. KLEIN: Objection to the form.

20 You can answer.

21 A. Somebody was present with me. I
22 would have to look at my notes.

23 Q. Did you take notes during your
24 meeting with Ms. Huyler?

25 A. Not during the discussion with her.

1 V. Barkyani

2 A. I believe it talks about a dress
3 code. It's changed over the years.

4 Q. But there is a dress code that's
5 referred to in the --

6 A. I believe there is something in
7 there about dress code. There were many memos
8 over the year that went out about dress code
9 much more specific and detailed than what's
10 located in that book there.

11 Q. So would it be fair to say that that
12 section of the handbook was updated from time
13 to time?

14 A. Yes.

15 Q. When you met with Carolyn Huyler to
16 discuss the concerns, did you give her a copy
17 of the write-up that you had prepared?

18 A. Yes.

19 Q. And did she read it in your office?

20 A. I believe so.

21 Q. And what did she say in response?

22 A. I don't recall.

23 Q. Do you still have a copy of the
24 write-up that you wrote for Carolyn Huyler in
25 her file in your office?

1 V. Barkyani

2 A. It's probably in my file.

3 Q. What was your position at that time?

4 Were you assistant manager or were you the
5 manager?

6 A. I would need to see the date on the
7 memo.

8 Q. You don't recall what position you
9 had?

10 A. I don't recall offhand.

11 Q. Did you ever prepare any other
12 written rite-ups of any employees, either when
13 you were assistant manager or when you were
14 manager?

15 A. I may have. I would have to check
16 my file.

17 Q. As you are sitting here now, we have
18 just discussed Carolyn Huyler and you prepared
19 a write-up for her; correct?

20 A. Yes.

21 Q. As you are sitting here now, can you
22 think of any other employees who you had
23 prepared a write-up for?

24 A. I believe Katina Collins.

25 Q. Do you remember when that was?

1 V. Barkyani

2 A. No.

3 Q. Do you remember what position you
4 held?

5 A. I would have to look at the date on
6 the memo.

7 Q. Would you have put a copy of the
8 write-up in a file that you maintained?

9 A. I should have, or Sue K. Would have
10 a copy.

11 Q. And that would be a file that was
12 called "Katina Collins" or "Collins, Katina"?

13 A. Something like that, yes.

14 Q. Any other employees?

15 A. I can't recall.

16 Q. Was there more than just the two?

17 A. There may have been.

18 Q. Did there come a point in time where
19 Carolyn Huyler went out on disability?

20 A. Yes.

21 Q. Was that after you discussed the
22 write-up with her?

23 A. I believe so.

24 Q. When she went out on disability, who
25 took over her account?

1 V. Barkyani

2 A. Yes, Nancy's husband.

3 Q. Was she in the hospital at the time
4 that he had advised you that they had found
5 cancer?

6 A. Yes.

7 Q. How long was she in the hospital?

8 A. A few days, maybe.

9 Q. Was she out on disability for a
10 period of time after the surgery?

11 A. Yes, after her second surgery.

12 Q. How long?

13 A. She came back December 5th and was
14 out from October, mid October some time until
15 December 5th.

16 Q. How are you able to remember that
17 specific date, December 5th?

18 A. Because my sister and I went on
19 vacation that week and, unfortunately, had to
20 leave Carol -- we were gone. That was Nancy's
21 first day back and we were going to miss her
22 first day back.

23 Q. When did you leave for vacation?

24 A. Saturday, perhaps.

25 Q. How long were you going to be away?

1 V. Barkyani

2 desk.

3 Q. Now, you said in March 2006 she was
4 working on Cerner so she shouldn't have had a
5 lot of work on her desk?

6 A. Correct.

7 Q. Had her job duties been removed from
8 her so that she could just work on Cerner?

9 A. After she was back for a few weeks
10 around holiday time 2005, I asked Nancy if she
11 would like to take over the Cerner interface.
12 She was involved in the project almost from its
13 inception, she knew all the problems associated
14 with it. It was certainly an important function
15 to DRA. It's the backbone for the company's
16 financial health. There were not many people
17 in the department that could really work on
18 that interface because of all the issues and
19 problems with it.

20 Q. And what did she say? You said you
21 asked her if she wanted to get involved in it.

22 A. Right. I spoke about all that I
23 just stated. There was nobody in the
24 department, really, that we could give it to.
25 I asked her if she wanted to take it over and

1 V. Barkyani

2 she said, yeah, if you want me to.

3 Q. Now, Carol Gustin was working on the
4 Cerner interface at that point; correct?

5 A. Carol and Jackie had been working on
6 it, yes.

7 Q. At the time you had the conversation
8 with Mrs. DeNardi, was Carol still working on
9 the Cerner interface?

10 A. Yes.

11 Q. Was Jackie still working on the
12 Cerner interface?

13 A. Yes.

14 Q. Were you working on the Cerner
15 interface?

16 A. Not directly. We were all working
17 on the problem, but the interface itself,
18 getting the charges into the system, ironing
19 out the bugs, was Carol and Jackie.

20 Q. And when you had this conversation
21 with Mrs. DeNardi -- and you say it was around
22 the holidays in December of 2005; correct?

23 A. Yes.

24 Q. -- were you asking her to become
25 involved along with Carol and Jackie or were

1 V. Barkyani

2 you asking her to take over the entire
3 interface itself?

4 A. No, I needed someone to take it
5 over. I needed to get Jackie out of there.
6 There were just too many payment problems,
7 contract problems, which is what Jackie worked
8 on. And Carol, I needed to get out of there a
9 little bit, too. I needed to put somebody else
10 on that project. Nancy would have been the
11 perfect choice. Her background was perfect for
12 it, she had a lot of insurance knowledge. She
13 was probably one of the best people for the
14 project, even over Jane. Jane was involved in
15 the project initially, who is kind of under
16 Nancy, but Jane asked to be removed from the
17 project because it was just too stressful. So
18 Nancy said, sure, if you want me to take it
19 over, I'll do it.

20 Q. Was anybody present when you had
21 this conversation with Mrs. DeNardi?

22 A. No, I believe it was just Nancy and
23 myself.

24 Q. Where were you located when this
25 conversation took place?

1 V. Barkyani

2 A. In my office.

3 Q. How long did the conversation take?

4 A. Maybe only ten minutes or so.

5 Q. Did you make any notes?

6 A. I don't believe I did.

7 Q. Other than your testimony that such
8 a conversation took place, do you have any
9 other proof that would verify that you, in
10 fact, asked Mrs. DeNardi to take over the
11 entire interface and that she agreed?

12 MR. KLEIN: Objection to the form.

13 You can answer.

14 A. I believe in her deposition she
15 relayed that conversation. So, aside from that
16 -- I mean, just that particular conversation
17 with her saying she would take it over, there
18 was nobody else present.

19 Q. It's essentially your word against
20 Mrs. DeNardi's word; correct?

21 MR. KLEIN: Objection to the form.

22 You can answer.

23 A. I think she even relayed that
24 conversation.

25 Q. Did you discuss what would happen to

1 V. Barkyani

2 her other job responsibilities if she agreed to
3 take over Cerner exclusively?

4 A. Yes.

5 Q. And what did you say in that regard?

6 A. I had told her that she could not do
7 her present job function and that it was just
8 too much. Cerner needed her whole focus; that
9 she would be working with Carol; Carol would
10 train her on that, as Carol had been with that
11 from before go live and had been working out
12 all the problems since then, and she said okay.

13 Q. Was Carol very frustrated with the
14 project at that point?

15 A. At the point that I asked Nancy to
16 take it over?

17 Q. Yes.

18 A. No. It was actually looking a
19 little better. The bugs were being worked out.

20 Q. Was it essentially a data entry
21 function where you were just inputting
22 information into the system?

23 A. Not at all.

24 Q. What did that function involve?

25 A. It involved some type of programming

1 V. Barkyani

2 A. Well, she could come to me as a
3 supervisor. I am the overall department
4 operations manager.

5 Q. Could the new supervisor terminate
6 Ronnee Monroe?

7 A. No.

8 Q. Were you the only person that could
9 terminate any of the people in the billing
10 department?

11 A. I couldn't even just terminate
12 anybody in the billing department.

13 Q. You needed authorization from
14 somebody?

15 A. Yeah.

16 Q. Who?

17 A. Mark Newton.

18 Q. Could Carol Gustin terminate anybody
19 in the billing department?

20 A. No.

21 Q. Could Jackie Bourne?

22 A. No.

23 Q. When, in relation to the job
24 posting, did you interview Shari McCauley?

25 A. Probably pretty close to the

V. Barkyani

for the operations of the department; correct?

A. Correct.

Q. As manager, do you handle financial reports for the company presently?

A. No.

Q. Who does that?


A. Kathy Rambo.

MS. PERRY: Since we are going to come back for a brief period of time, why don't we call it a day now?

MR. KLEIN: That's fine.

MS. PERRY: We're going to end for today.

(Time noted: 4:50 p.m.)


Virginia Barkyani

Subscribed and sworn to before me
this 6 day of August, 2008.



Notary Public

CHRISTINE PALUMBO
Notary Public, State of New York
No. 01PA8077158
Qualified in Orange County
Commission Expires July 08, 20 10

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C E R T I F I C A T E

STATE OF NEW YORK)

: SS.


COUNTY OF NEW YORK)

I, ERIC ALLEN, a Notary Public
within and for the State of New York, do
hereby certify:

That VIRGINIA BARKYANI, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 2nd day of July, 2008.

A handwritten signature in black ink, appearing to read "Eric Allen", is written over a horizontal line.

ERIC ALLEN

ERRATA SHEET

Deposition of Virginia Barkanyi, held on June 17, 2008

Re: *DeNardi v. DRA Imaging, P.C., et al.*, 07 Civ. 5794 (MGC)

| PAGE | LINE(S) | READS | SHOULD READ | REASON FOR CHANGE |
|------|---------|----------|---------------------|-------------------|
| 4 | 2 | Barkyani | Barkanyi | misspelling |
| 48 | 3 | manager | director | clarification |
| 115 | 2 | Note | No | typo |
| 119 | 8 | mother | more | typo |
| 35 | 2 | No | Yes. Shari McCauley | clarification |
| 138 | 8 | year | years | clarification |
| 201 | 21 | off | auth | clarification |
| 233 | 2 | in | and | clarification |
| 255 | 3 | did I | I did | clarification |
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Virginia Barkanyi
 Virginia Barkanyi

Sworn to before me this
 6 day of August, 2008

Christine Palumbo
 Notary Public

CHRISTINE PALUMBO
 Notary Public, State of New York
 No. 01PA6077156
 Qualified in Orange County
 Commission Expires July 08, 2010